

**ACE PROPERTY AND CASUALTY
INSURANCE COMPANY
(Fairfax Farms),**

Appellant

Representing the Appellant:

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Representing the Government:

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AGBCA No. 2003-113-F

DECISION OF THE BOARD OF CONTRACT APPEALS

July 27, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

This appeal arises out of a 1998 Standard Reinsurance Agreement (SRA) between the Federal Crop Insurance Corporation (FCIC) and Cigna (now ACE) Property and Casualty Insurance Company of Philadelphia, Pennsylvania (ACE or Appellant). The SRA recites that it is a “cooperative financial assistance agreement.” Under the SRA, Appellant sells and administers multi-peril crop insurance (MPCI) in furtherance of the Government’s crop insurance program. Premiums are subsidized by FCIC, and FCIC reinsures a portion of Appellant’s indemnity payments. Risk Management Agency (RMA) is the entity created to manage the crop insurance program on behalf of FCIC

This appeal is taken from the July 24, 2002 final determination of the Deputy Administrator of Risk Compliance, RMA, that Appellant erred in agreeing to arbitrate an adjustment dispute with its insured, Fairfax Farms, and therefore FCIC was entitled to be reimbursed \$3,458 in premium overstatement and \$44,627 in indemnity overpayment. Appellant's position was that it was required by FCIC-dictated MPCCI policy terms to arbitrate the dispute, and thus was not out of compliance.

The Board has jurisdiction to decide the appeal under 7 CFR 24.2(b) and 400.169(d).

The appeal was timely filed and received at the Board October 4, 2002. The parties filed pleadings. FCIC provided an appeal file and Appellant a supplemental appeal file. Thereafter, the parties engaged in discovery. During a March 3, 2004 conference with the parties regarding this appeal, and a related appeal (AGBCA No. 2003-114-F), the parties agreed to litigate AGBCA No. 2003-114-F first on the premise that the outcome in that case would guide resolution of the instant case by the parties. Hearing dates were set for June 23 and 24, 2004, in Fresno, California. Shortly before the scheduled hearing dates, the parties informed the Board by telephone that they were close to settlement and wished to postpone the hearing pending further talks. The Board has now received Appellant's Motion for Dismissal requesting dismissal with prejudice, pursuant to an agreement between the parties.

DECISION

The appeal is hereby dismissed with prejudice.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
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